

FISCAL NOTE

HB 95 - SB 1591

April 1, 2005

SUMMARY OF BILL: Revises the medical malpractice damage provisions to allow for an award being decreased reflecting costs paid or losses indemnified by the United States Social Security Act, any state or federal income disability or worker's compensation, or private insurance. Limits awarded damages for noneconomic losses to \$250,000 and authorizes the trial courts to order money judgments to be paid in whole or in periodic payments if equal to or exceeding \$50,000. Sets limitation ranges on the amount of attorney's fees that may be awarded and requires notice in any contract for medical services that contains a provision for binding arbitration of any dispute arising from alleged medical malpractice.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact – If malpractice insurance premium rates are reduced, the TennCare program and the state health insurance plan could experience more moderate cost increases in the long term. If malpractice awards were decreased, some individuals in need of medical care could become eligible for TennCare.

Assumptions:

- The impact of medical malpractice award changes cannot be determined. Such changes may moderate the growth of malpractice insurance premium rates and savings to TennCare would depend upon the amount of savings passed on by providers.
- If awards were reduced, some persons with significant health care costs could spend down their income and become eligible for TennCare sooner than would otherwise occur. The number of such cases is estimated to not be significant.
- Claims for malpractice against the State fall under the exclusive jurisdiction of the Claims Commission Act which limits total damages to \$300,000. This bill would not have a significant decrease in payments on state claims.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director